

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.126 OF 1996
IN
NOTICE OF MOTION NO.438 OF 1994
IN
SUIT NO.481 OF 1994

Moses Anton D'Souza .. Appellant

v/s.

Mary Joseph Fereira and ors. .. Respondents

Mr.A.J.Almeida for the appellant.

Mr.F.T.D'Mello for the respondent Nos.14 and 15.

CORAM : R.M. LODHA AND
J.P. DEVADHAR, JJ.

DATED : 25th July, 2005

P.C.

Heard.

2. The appeal is directed against the order dated 18th January, 1996 passed by the learned motion Judge declining to continue the ad-interim order dated 8th February, 1994 and thereby dismissing the notice of motion.

3. It is not in dispute that during the pendency of the appeal the ad-interim order dated 8th February, 1994 has been ordered to continue. In other words, the order dated 8th February, 1994 is operative for more than 10 years.

4. We are informed by the advocate for the

respondent Nos.14 and 15 that the said respondents have also filed the suit in suit No.2371 of 2004 against the present appellant and other respondents interalia seeking partition of the subject property by metes and bounds.

5. Without prejudice to their rights and contentions, the learned counsel for the parties were not averse to our suggestion that hearing of both the suits being suit No.481 of 1994 and suit No.2371 of 2004 may be expedited and until then the ad-interim order passed on 8th February, 1994 in notice of motion No.438 of 1994 in suit No.481 of 1994 which has been in operation for the last ten years may be allowed to remain operative until disposal of suit No.481 of 1994.

6. We, accordingly, dispose of the appeal by the following order:-

i) The impugned order dated 18th January, 1996 is set aside and the ad-interim order dated 8th February, 1994 is ordered to remain operative until disposal of suit No.481 of 1994.

ii) Suit No.2371 of 2004 shall be heard and disposed of alongwith suit No.481 of 1994. The hearing of both the

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suits is expedited. The respective parties shall complete their pleadings in both the suits within three months from today.

We request the learned trial Judge to conclude the trial of both the suits as expeditiously as possible and preferably within one year from today.

No costs.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)